

## Treasury Department,

Bureau of the Mint,

Washington, D. C.,

June 27, 1895.

Herman Kretz, Esq.,

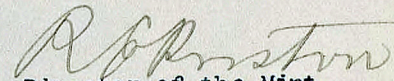
Supt. U.S. Mint,

Philadelphia, Pa.

Sir:-

The enclosed copy of the opinion of the Comptroller of the Treasury in the matter of paying for newspapers, and subscriptions thereto, from the appropriation for contingent expenses of the mints and assay offices is herewith furnished for your information and guidance.

Respectfully yours,

  
Director of the Mint.



IN RE APPEAL OF W.J. PUCKETT, ASSAYER IN CHARGE U.S. MINT,  
DENVER, COLORADO.

The provisions of section 3683, Rev. Stat., forbidding the use of the contingent fund appropriated "to any Department, bureau, or office," in the purchase of any articles except such as the head of the Department shall deem necessary and proper and shall, by written order direct to be procured, extend to all Departments, bureaus and offices, no matter where located.

TREASURY DEPARTMENT,  
Office of Comptroller of the Treasury,  
June 22, 1895.

In the settlement of the account of W.J. Puckett, Assayer in charge U.S. Mint at Denver, under the appropriation for contingent expenses for the quarter ended September 30, 1894, the Auditor for the Treasury Department suspended, in his certificate No. 1009, and after explanation disallowed, per certificate No. 1875, two items amounting to \$4.50., being expenditures made for subscriptions to two daily newspapers. Mr. Puckett appeals to the Comptroller and asks a revision of the last named account so far as the disallowance of these items is concerned.



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The appropriation in question reads:

"Mint at Denver, Colorado: . . . . For incidental and contingent expenses, four thousand dollars."

The two vouchers are approved by the Assayer, and also bear the approval of the Director of the Mint, but they do not bear the approval of the Secretary of the Treasury, nor do the newspapers appear to have been purchased or subscribed for in pursuance of a previous written order of the Secretary of the Treasury.

These expenses seem to have been incurred in direct violation of the provisions of sections 192 and 3683 of the Revised Statutes, These sections are as follows:

"Sec. 192. The amount expended in any one year for newspapers, for any Department, except the Department of State, including all the Bureaus and offices connected therewith, shall not exceed one hundred dollars. And all newspapers purchased with the public money for the use of either of the Departments must be preserved as files for such Department."

Sec. 3683. No part of the contingent fund appropriated to any Department, Bureau, or office, shall be applied to the purchase of articles except as the head of the Department shall deem necessary and proper to carry on the business of the Department, Bureau, or office, and shall, by written order, direct to be procured."

It has been suggested that these sections are limited in their application to the departments and bureaus, and offices thereof, in Washington, and do not apply to the subordinate offices and bureaus situated elsewhere.



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These sections do not appear to have been construed either by the courts or by the Attorneys-General. Section 3828, R.S. which provides that

"No advertisement, notice, or proposal for any Executive Department of the Government, or for any Bureau thereof, or for any office therewith connected, shall be published in any newspaper whatever, except in pursuance of a written authority for such publication from the head of such Department: . . . ."

was construed in an opinion by Solicitor General Phillips, approved by Attorney General Devens, 16 Opin. A.G. 616, wherein it was held that the provisions of that section relate to all bureaus and offices of the various executive departments of the government, no matter where located. The following language is used in that opinion:

"I have considered the expression, and am of ~~XXX~~ the opinion that it extends to offices connected as above, no matter where situated. The general phrase occurring as early as the act of August 26, 1842 (5 Stat. 523) the context there (sections 15 and 16) shows that Congress adverted to the circumstance that an express qualification might be required to limit its application to offices at the seat of Government. Section 15 is reproduced by section 178 (171) of the Revisal."

Sections 192 and 3683, R.S. are taken from the act of August 26, 1842, section 192 being taken from section 16 of said act, and section 3683 being taken from section 19 of said act. As neither section 192 nor section 3683 contain words limiting the bureaus or offices therein mentioned to those at the seat of government, it follows, from the reasoning of the opinion quoted, that they are not limited in their application to the bureaus and offices at Washington, and



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this is particularly true as these sections were taken from the act of March 6, 1842, in certain sections of which such limitation was clearly expressed.

It is true that in practice these sections, and particularly section 3683, have not apparently been considered as limited to offices and bureaus at the seat of government. This may be, however, because, prior to the opinions given by Attorney General Garland in 18 Opin. A.G. 424 and 432, the practice seems to have been to treat the written order required of the head of the department by section 3683 as capable of being given by some one else to whom he might delegate that authority, and therefore by the heads of the various bureaus for which the appropriations were made. Attorney General Garland held that the head of a department was not authorized to delegate the power conferred upon him in that section.

Under the authority of the opinions in 16 Opin. A.G. 616, and 18 Opin. A.G. 424 and 432, above cited, the expenditures for newspapers by the Assayer of the Mint at Denver, were not legally authorized, and cannot be allowed.

The action of the Auditor is therefore affirmed.

R.B. Bowler,  
Comptroller.

[Letter One:]

F.P.G.

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Bureau of the Mint,  
Washington, D.C.,  
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